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ISSUE BRIEF

Justice for Tribal Elders: Issues Impacting American Indian and Alaska Native Older Adults

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EXECUTIVE SUMMARY

Elders are revered in American Indian and Alaska Native communities, but experience significant systemic barriers to accessing the health and social supports they need to age with dignity. Advocates and aging service providers can better support tribal elders by partnering with local tribal organizations and learning about the unique cultures, systems, and gaps that impact tribal elders. In this paper, we encourage programs serving tribal elders to improve their competency of Native cultures, programs and rules specific to Native communities, and barriers for elders living on tribal lands.

This paper, Justice for Tribal Elders: Issues Impacting American Indian and Alaska Native Older Adults, aims to introduce legal and aging advocates to information on health, economic, and other barriers for tribal elders; laws, government programs, and eligibility rules unique to tribal communities; and the necessary cultural competency to better serve tribal elders.

WHO ARE TRIBAL ELDERS?

Tribal elders are pillars in their communities, but face tremendous challenges in aging independently. There are nearly one million American Indian and Alaska Native (AIAN) people over the age of 65 belonging to 574 federally recognized tribes.[1] Tribal communities have tremendous diversity, including in terms of their size and geography, tribal history, cultural and spiritual practices, and languages. All Native communities, however, experience gaps in accessing essential services, and tribal elders are especially impacted by inequities in health care services, housing, economic security, and other services necessary to age with dignity. The delivery of essential services—such as health care, housing and transportation, and legal assistance—and addressing inequities in AIAN communities must be tailored to the diversity of tribal elders.

AIAN communities continue to face tremendous inequities in terms of housing and economic security. AIAN populations face the highest rates of poverty of any racial group in the United States, at twice the national average rate, and also report the most severe levels of food hardship.[2] Housing insecurity is one of the largest barriers in Native communities, including in terms of unaffordability, overcrowding, and deficiencies in utilities and appliance access.[3]

Native communities also experience significant health disparities, such as in the areas of heart disease, diabetes, mental health and substance use disorders, and chronic illnesses. Native older adults specifically face high rates of chronic illnesses, including obesity, diabetes, hypertension,[4] life expectancy, and mortality from Alzheimer's disease.[5] Additionally, AIAN people experience the highest mortality rates of any racial group in the U.S., life expectancies that are 10 years less than average,[6] and experience the highest rates of mortality due to the COVID-19 pandemic. These disparities are even greater in some tribes and regions. For example, the average life expectancy on the Pine Ridge Reservations is as low as 47 years.[7] Limited data on and research including Native communities—particularly, disaggregated data about tribal elders—means there are likely additional unknown inequities.[8]

Tribal elders face additional hardships. For example, the existence of "food deserts"[9] combined with limited public transportation on rural reservations may leave tribal elders who are unable to drive with limited options for nourishment. Poor road conditions on reservations also create barriers for Native elders in accessing health, retail, or other services; participating in family, community, or organizational activities; and receiving public services, such as Meals on Wheels, in remote areas. Similarly, the digital divide in Indian country limits Native elders' ability to connect socially and access updated information about public benefits and aging related services. The limited number of nursing facilities and home- and community-based services available on reservations, in part because of their remote nature, also puts Native elders who need long-term care services at risk, and, for those not living alone, may additionally burden family or community members who ultimately provide care.

Our Approach to Language

In developing this resource, Justice in Aging relied on information created by tribal organizations and consulted with a number of tribal elders and advocates. Our research and conversations from those closest to the issues presented here informed our choice to primarily use the term tribal elders, which we learned resonated with the community. However, there are a number of other terms used in this resource—including American Indian and Alaska Native (AIAN) older adults and Native elders—which reflect the language used in the cited source.

In addition, health disparities for AIANs as a result of these numerous systemic inequities mean that tribal elders experience signs of aging sooner than their non-tribal counterparts in the U.S. As a result, tribal elders may not be able to fully benefit from services with minimum-age requirements—like Social Security retirement benefits—due to lower life expectancies. Moreover, especially in tribal communities, the premature deaths of elders—who are often the keepers of the tribes' traditions and languages—can impact the viability of tribal communities and their cultures.

Native people living on reservations experience the highest rates of poverty of any racial group in the U.S. (39%) and AIAN people both on and off reservations experience poverty at almost three-times the rate of white people (26%).[10] Native elders, specifically, experience poverty at twice the rate of all older adults in America (18.9%, versus 8.9%).[11] However, rates of poverty are improving. For example, there have been faster rates of economic development on tribal lands since the 1990s as a result of self-determination policies.[12]

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Health disparities for AIANs as a result of numerous systemic inequities mean that **tribal elders experience signs of aging sooner than their non-tribal counterparts in the U.S.**

For tribes with substantial tribal owned business, "the switch from federal administration to tribal administration is being manifested in investment in long-neglected infrastructure, as streets, water systems, schools, health clinics, and the like are rapidly being upgraded."[13]

“
Native people living on reservations experience the highest rates of poverty of any racial group in the U.S. (39%) and AIAN people both on and off reservations experience poverty at almost 3x the rate of white people (26%).

Native elders, specifically, **experience poverty at twice the rate of all older adults in America.**

These inequities are rooted in the historic genocide, land dispossession, and forced migration of indigenous communities in the Americas, and the longstanding forms of oppression, such as American Indian residential schools, forced sterilization, and the U.S. federal governments' pattern of breaking promises under treaties with American Indian tribal nations. The results of this long-standing history of trauma perpetuated by federal and state government are a widespread distrust of federal and state agencies, lowered utilization of public programs, and worsened health and economic outcomes among Native communities.

Despite the numerous systemic inequities that disadvantage Native people, tribal elders and their communities continue to be resilient. Advocates and service providers must work in partnership with indigenous communities to identify the unmet needs of tribal elders, implement culturally relevant supports, and incorporate the direct voices of tribal communities in policy solutions.

Highlighting Tribal Government Sovereignty and Self Determination

The legacy of forced removal, cultural genocide, and treaty violations by the U.S. has permeated the legal relationship between U.S. federal government and tribal governments.[14]

Self-determination refers to formal policies in effect since the mid-1970s, including under the Indian Self Determination Act,[15] and the social movements by which tribes advocate to exercise self-governance of tribes and decision-making authority on issues affecting their communities. While tribes are subject to U.S. federal law, they operate by their own constitutions, judicial systems, tax, and regulation processes. Under a series of treaties and laws (called "trust responsibility"), the U.S. federal government has a responsibility to protect tribal lands, honor self-governance, and to provide assistance to tribal communities.[16] Self-determination rejects the historical paternalistic approach and instead uses a government-to-government relationship when tribes engage with U.S. state or federal government.

"[Tribal] sovereignty is a legal word for an ordinary concept—the authority to self-govern."[17] Honoring tribal sovereignty means abiding by treaties commitments; engaging with tribes in government-to-government relations when making decisions that impact tribes; and funding tribal services and respecting tribes' allocation of services to meet the needs of their citizens.

Social safety net programs—such as Medicaid, Social Security, and others—must center tribal sovereignty and the concept of self-determination in order to best meet the needs of tribal elders.

CULTURAL COMPETENCY RELATING TO TRIBAL ELDERS

Cultural competency—the practices, values, and attitudes that allow people to work cross-culturally[18]—is a critical part of delivering services to tribal elders. Practicing cultural competence, as well as the related concepts of cultural humility and cultural relevance, is a reiterative endeavor of respecting and honoring the beliefs, languages, and practices of tribal communities; learning about tribal cultures and the history of American Indian and Alaska Native peoples; and listening and responding to the direct voices of tribes. There is great cultural diversity among the hundreds of tribes that exist in the U.S., so it is important to understand the unique history and culture of the tribes in a particular service area. Given that 78% of American Indian and Alaska Native people do not live on tribal land, [19] all advocates and services providers should endeavor to promote culturally, linguistically, and spiritually relevant services to tribal elders.

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Languages

Language is a central part of many tribal communities, including as a tool to share history and tradition over many generations.[20] Tribal elders in particular have an important role in keeping Native languages alive. Some estimate there were up to 500 different Native languages spoken in North America.[21] Historically, linguicide has been systematically used against Native populations as a form of oppression and was carried out through the unjust practice of placing Native children in Indian boarding schools, the Indian adoption project, and other tools of colonialism.[22] While fewer than 200 of the languages are still spoken today, there are still approximately half a million speakers of Native languages, the majority of whom are over the age of 65.[23] Providers and advocates should ensure that language access—in the form of interpreters and translations—are available to tribal elders upon request.

However, many tribal elders may have never had the opportunity to learn their Native language or feel hesitant to do so due to traumatic memories from childhood, such as the boarding school experience in which Native children were punished—often violently—for speaking their languages. Moreover, many Native languages are primarily oral traditions, meaning written translations may not be the most effective means of communication with some tribal elders.[24] The overwhelming majority of older adults living in American Indian or Alaska Native areas speak English.[25] English language proficiency, however, does not necessarily translate to health literacy (i.e., the ability to find, understand, and use information to inform health decisions) or literacy about public benefits programs.[26] Some best practices to ensuring that tribal elders have meaningful access to information when using public benefits include using plain English on all written materials; diversifying methods of communication to enable elders without Internet access to gain information, such as by using radio stations; and partnering with tribes to best understand the unique needs and preferred solutions for tribal elders in your area.[27]

Spiritual Practices and Traditions

Community traditions—which can be made up of values and practices relating to religious and spiritual beliefs, medicines, foods, community gatherings, dances, songs, and poetry, among others—are central to many tribal cultures and influence tribal elders' values and behaviors.[28] These values can impact the way in which tribal elders interact with essential services, including in terms of having a sense of belonging, visibility, safety, and justice. For example, a tribal elder may feel comfortable with aspects of traditional medicine (e.g., holistic, connectedness with others, harmony with nature, respectful and careful)[29] and uncomfortable with some aspects of Western medicine (e.g., systemic, symptom oriented, clinical).

It is important to meaningfully engage and partner with local tribal organizations to better serve tribal communities, as spiritual practices and beliefs between tribes and individuals can vary. One commonality among tribal culture is the role of elders, who are typically revered as community leaders and wisdom-keepers.[30] An example of cultural competence is the understanding that spirituality may be an indispensable part of a tribal elders' life, and the inability to practice or access spiritual resources can be detrimental to the elder's well-being. For example, supporting a tribal elder in practicing traditional ceremonies—such as talking to a medicine man or priest or smudging—in settings like home and community-based services, long-term care and hospice facilities, may carry great spiritual importance and improve their overall health outcomes.[31]

Addressing Elder Abuse in Indian Country

Culturally competent and community-driven approaches to preventing and addressing elder abuse are crucial in tribal communities. In addition to global trauma-informed and person-centered practices, there may be special considerations when discussing abuse, neglect, isolation, and exploitation with tribal elders. For example, a tribal elder may consider discussing abuse to be taboo and/or may feel that it is incongruent with their role as a leader in their community.[32] Additionally, some advocates have found that the language used to discuss potential abuse greatly impacts the tribal elder's comfort in reporting abuse, finding, for example, that words like "bothering" and "disrespecting" are more likely to garner a response than "abuse."

Tribal elders may face different forms of abuse than others. For example, contaminating or limiting access to ceremonial objects and practices—such as pawning spiritual objects without permission or not being taken to cultural events—can rise to the level of elder abuse.[33] Elder abuse prevention, mitigation, and response programming for tribal elders must be community driven in order to reflect the unique needs of the tribe and empower elders and their families. Examples of culturally sensitive elder abuse programming are those being pursued by the Tribal Elder Justice Innovation Grantees, such as creating or updating "elder justice codes" in tribes' legislation, developing support groups, and disseminating culturally-relevant literature about elder abuse.[34]

HEALTH CARE PROGRAMS

Tribal elders not only face inequitable barriers in accessing culturally relevant and affordable health care, but also experience some health conditions at higher rates. Not only do tribal populations have the lowest life expectancy of any racial group in the U.S.,[35] but experience certain diseases—like heart disease and diabetes[36]—at disproportionally high rates.

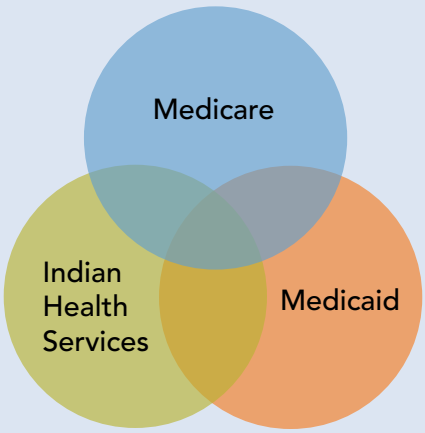
Factors like lack of interpreters or translations for Native languages, a health care workforce that is not representative or inclusive of AIAN communities, institutional preferences for Western medicine, and systemic racial discrimination contribute to health care experiences that are not culturally appropriate and alienate Native elders. Other systemic barriers to health care for Native elders include irregular sources of health care; lack of providers, particularly specialists, in close proximity to the elders' home; and lack of accurate information on health care coverage.

Health Care Coverage

Health care coverage options for AIAN communities involve a complicated network of federal, state, and private programs—such as the Indian Health Service (IHS), Medicaid and Medicare, Urban Indian Health Programs, and marketplace or employer-provided insurance—which have intricate coverage rules depending on the type of service, the provider, and other coverage options at issue. Information about these options is not available in a consolidated and easily understandable form to tribal elders or their families, and accessing this information often requires computers or smart devices, broadband, and Internet-literacy to navigate websites; transportation or telephone access to speak to live agents at various agencies and contracted entities; and language and literacy skills to read about, listen to, and ask about health care coverage options. It also depends on agency representatives and providers that are familiar with coordinating coverage among multiple programs and able to appropriately share that information with older Native patients. Without persistent support from a trusted caregiver

or advocate, navigating these services may be essentially impossible for tribal elders.

Without information available to Native families and elders about sources for Medicaid and Medicare, covered services and providers, and service coordination with IHS, tribal elders may not be fully insured and accumulate unnecessary medical debt.[37] The inaccessibility of these systems and the threat and fear of medical debt—particularly in Native communities, which experience significant wealth gaps—is not only mentally draining, but can lead to Native elders delaying or avoiding necessary care.



A low-income tribal elder can be "triple eligible."

Indian Health Services

Indian Health Services (IHS)—a division of the U.S. Department of Health and Human Services—has authority for 45 hospitals and 780 clinics, and serves 2.56 million people across 574 tribes. Since "compact" policies—special contracts between multiple governments[38]—were implemented, tribal governments have assumed control of almost 50% of facilities. "Patients may be more willing to trust health care facilities that are directly managed by tribal governments, and tribal governments may have local knowledge that allow them to develop more effective systems of care."[39] IHS is a vital source of healthcare for anyone who is a member of a federally recognized tribe, as it directly provides many essential health services and, through the Purchased/Referred Care program, can cover services provided by non-tribal health.[40] However, tribes continue to face systemic inequities in delivering necessary levels and types of healthcare services to their elders due to limited IHS funding and lack of coordination between IHS and sources of healthcare coverage.

"Patients may be **more willing to trust health care facilities** that are directly managed by tribal governments, and tribal governments may have **local knowledge that allow them to develop more effective systems of care.**

The limited accessibility of IHS facilities and providers are a barrier for many tribal elders. Not every state has an IHS facility and patients often have to travel long distances to access them.[41] Especially in remote areas, IHS may be the only source of care for tribal elders; however, limited staffing and scope of services at IHS facilities perpetuate health disparities in tribal communities.[42] Most importantly, IHS has been significantly and chronically underfunded since its inception, with some advocates asserting that the funding is not sufficient to meet even 50% of patients' needs.[43] As a result, patients often need to receive third party referrals to fulfill the unmet healthcare needs that they expected IHS to provide.

IHS delivers healthcare services at no cost and provides healthcare funding to eligible tribal communities, but it is not health insurance. Tribal

elders would benefit from having health insurance, for example through Medicare or Medicaid, to supplement IHS services to see certain specialists or receive care from non-tribal health providers.[44] Coverage through Medicare and Medicaid can help tribal elders avoid medical debt and gives them the flexibility to see their IHS provider, someone else, or both.[45] Additionally, using Medicaid and Medicare to pay for covered services ultimately frees up IHS funds to be used for other or additional health services.[46]

The Purchased/Referred Care Program (PRC)

The Purchased/Referred Care (PRC) program provides IHS with a limited budget to cover medical and dental care for tribal members by outside providers when IHS is unable to provide it. PRC also allows tribal members to receive continuous care—for example, if they move off the reservation or are temporarily travelling—by receiving a referral from an IHS provider.[47] In addition to the referral, the patient must meet requirements relating to residency, notification, medical priority, and use of alternate resources in order for the care to be paid.[48] While the PRC program allows tribal elders to have flexibility to see non-tribal providers if they need to, it is administratively burdensome to navigate alone and funding for the program has been historically insufficient to cover all referrals to non-tribal providers.[49]

Medicare

Medicare provides health insurance for people 65 and over and people with certain disabilities.[50] Its four parts cover services ranging from hospital insurance (Part A), medical insurance (Part B), managed care plans (Part C), and prescriptions (Part D). Medicare can cover services that IHS does not provide, such as visits to specialists. By using Medicare to pay for services provided by their tribal health providers, tribal elders can bring more healthcare dollars to tribal communities.

The Medicare Savings Program (MSP) is available to low income people, and will pay the cost of their Medicare Part A and B premiums—and in some circumstances, deductibles, coinsurance, and copayments—if their income is under a certain threshold.[51] For tribal elders, distributions from Indian Trusts are not counted for the purposes of financial eligibility for MSP. Similarly, certain sources of income—including selling basketwork or culturally significant jewelry and payments from natural resources on Indian trust land—are excluded for the purpose of determining eligibility.[52]

The Medicare Low-Income Subsidy (LIS) can cover the cost of prescriptions for eligible tribal elders. The LIS helps those enrolled in Part D—Medicare's prescription drug program—to pay out-of-pocket costs, monthly premiums, and annual deductibles for prescription drugs for those whose income is 150 percent or less of the federal poverty level.[53] Improved education and outreach can support tribal elders in accessing LIS, considering that enrollment in the LIS among tribal elders is relatively low and nearly 100,000 eligible elders are unenrolled.[54]

Medicaid

Tribal elders who meet the financial eligibility requirements can also qualify for health insurance through Medicaid in addition to Medicare and receiving care from IHS. Importantly, tribal members who receive care through IHS can continue to see their same providers after enrolling in Medicaid.[55] Medicaid is available to all U.S. citizens and eligible immigrants on the basis of income. The eligibility criteria for and services available under Medicaid vary by state.[56]

Comparing Issues in Medicaid

Issue	Medicaid for general population	Medicaid for Native elders
Eligibility	Most types of assets and income sources are considered "countable" for the purpose of Medicaid eligibility, with few exceptions.	Certain resources (e.g., distributions from trusts or reservation properties) and sources of income (e.g., earnings from property rights) are not counted against AIANs when determining Medicaid eligibility.[57]
Cost-sharing	States may impose cost-sharing (i.e., out of pocket costs) for Medicaid enrollees, or impose higher charges for people with higher incomes.[58]	There is no cost-sharing for members of federally recognized tribes. Tribal elders are not charged premiums, deductibles, or enrollment fees. [59]
Estate recovery	Property may be subject to Medicaid estate recovery if the elder received long-term care through Medicaid.	Indian Trust property and income are not subject to Medicaid estate recovery, including: (1) trust property, (2) income from treaty-protected natural resources, (3) cultural, religious, or spiritually significant items, and (4) items that support traditional lifestyles.[60]

Tribal elders who are enrolled in Medicaid managed care organizations—health care entities designed to reduce costs through government and private partnership—are entitled to federal protections, including the right to choose to enroll in managed care.[61] Some states have established Indian Managed Care Entities, which are managed care organizations that are controlled by IHS or a tribe.[62] State Medicaid agencies must meaningfully consult with tribes in developing and administering health care services through managed care plans in order to ensure that tribal sovereignty is respected, tribal elders receive high quality health care, and health programs for tribes are not unduly burdened by managed care policies.[63]

Other Health Services

Urban Indian Health Programs (UIHPs) are private organizations funded by IHS that provide traditional health as well as social services, including outreach efforts, cultural activities, and referral services.[64] These programs can provide culturally appropriate healthcare for Native elders not living on or near reservations. These programs only exist in a small number of states, and can be located here.

Tribally run health systems are health care facilities that are run by tribes through self-governance compacts.[65] These programs allow tribes to have greater flexibility in tailoring services to best meet the needs of the community. These facilities are often resourced by a combination of funding from IHS, grants, and tribal profits and investments.

Long-Term Care Services and Supports

There is limited availability of nursing facilities and home- and community-based services in Indian Country, and limited culturally appropriate long-term care services and supports in urban areas. Long-term care services and supports (LTSS) refers to the broad range of services that can help an older adult with their activities of daily living, including eating, bathing, and mobility. These services can take the form of personal care aides or assisted living, mental health services, transportation, congregate meals or meal delivery, or chore services.[66] For the general population of older adults, LTSS services support one to age in place, as opposed to moving to a nursing facility. For Native elders—who may experience difficulty with daily activities at higher rates than other racial groups[67]—these services are critical to continuing to live in tribal communities and engaging in important social practices.

While there is no universal system that provides LTSS to older adults in the U.S., Native elders can access various LTSS-related services through IHS, Medicaid, Urban Indian Health Centers, the Veterans Administration, or Older Americans Act-funded tribal organizations. Although Medicaid continues to be the largest funder of home and community-based services, IHS funding can also be used for LTSS services, including those not covered by Medicaid.[68] Some examples of LTSS services provided through IHS include transportation, personal care, home modifications, and senior centers.[69] While still insufficient to meet the needs of older adults, Medicaid-funded home- and community-based waiver services (HCBS) are a common source of LTSS. Eligibility for HCBS varies by state but is often tied to the older adult's functional needs and finances. Most importantly, Medicaid Estate Recovery—the program by which states recover the cost of Medicaid funded LTSS from beneficiaries—does not apply to Indian trust property, including property on reservations and income from treaty-protected resources.[70]

SOCIAL DETERMINANTS OF HEALTH

Social determinants of health (SDOH) are non-medical factors in the environment where people live and age that impact health outcomes. For tribal elders, systemic inequities stemming from wealth gaps and disparities in digital access can also impact their overall well-being. For example, research connects low life expectancy among tribal elders to significantly higher rates of poverty as compared to other communities.[71] Relatedly, the historical privatization of reservation lands led to loss of land due to fraud and foreclosures, termination of tribal governments, and increased criminal jurisdiction of states. Ongoing disparities for Native communities include inequitable cost of living on tribal land; workplace discrimination,[72] including wage disparities and long-term impact on economic security; and sanitation disparities, including in water sanitation and water-borne related illnesses and deaths. Addressing health inequities for tribal elders requires addressing the root causes of social, economic, and housing inequities.

Economic Security

The Social Security Administration provides several forms of financial assistance, including retirement benefits for people with the qualifying number of work quarters, as well as Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) for people who meet the medical and non-medical eligibility requirements. Similar to the barriers in healthcare coverage, tribal elders face barriers resulting from lack of information about Social Security. For example, the Social Security Administration has increasingly relied on Internet-based resources—such as the user portal, my Social

Security—to share information with individual consumers. The over-reliance on web-based communication is a major barrier for tribal elders with limited access to broadband.

Similarly, tribal elders face barriers receiving answers and information about their Social Security benefits due to the unreliability of the phone help-lines (including discomfort with automated messages and limitations for elders with rotary phones) and the inability to visit the Social Security office in-person. These barriers may lead to insufficient information to tribal communities about financing retirement, such as information about paying into Social Security as a self-employed person or the availability of other forms of retirement savings. Similarly, tribal elders may be impacted by limited information about using SSI benefits, such as information about income exclusions specific to AIAN populations and income earned through cultural practices (e.g., fishing).[73] The Social Security Administration's newly created Office of Native American Partnerships is intended to serve as the primary point of contact for stakeholders on tribal issues and to reduce access barriers.[74]

Housing

Native people on "tribal lands have some of the highest housing needs in the United States" and face additional barriers such as overcrowding, lack of plumbing and heating, and rural or remote geographies.[83] Housing-related costs are especially inequitable for AIAN people, with nearly a quarter of Native households paying 30% or more of their income for housing and 70% of tribal governments identifying the cost of infrastructure as a barrier to development.[84] In addition to these widespread inequities, the field of housing programs for tribal communities has been somewhat volatile—with multiple major changes in eligibility for tribal communities since the 1960s—creating an added barrier for tribal populations throughout their lifetime.[85]

Despite the urgent need for affordable and appropriate housing on tribal lands, federal investments in housing have been limited—especially in the most remote areas.[86] Some housing supports available specifically for tribal communities include the Department of Housing and Urban

Other Social Determinants Impacting Tribal Elders

Transportation	Broadband & Technology	Utilities & Appliances
Reservations can be very remote or rural. Poor road conditions also make transportation difficult. Additionally, lack of licenses or ability to drive can be a barrier for elders; some social service providers may not drive to rural areas.[75]	Tribal elders may have limited access to and comfortability with electronic devices—like smart phones and computers—which can impact their ability to access essential resources.[76] For example, automated phone prompts can be a barrier as many Native elders do not have smart phones with the capability to select call-tree options or enter information. Similarly, AIAN communities have the lowest access to broadband Internet, which can be a major barrier in getting information and contacting doctors or other service providers.[77] This, combined with disparate access to electronics, is a barrier to tribal elders interfacing with online portals, such as to upload or download documents, access updates about their benefits, or find information about public benefits.[78]	Tribal lands experience inequities in availability of and access to utilities, including electricity,[79] safe drinking water, indoor plumbing,[80] heating systems, and sewage management.[81] Additionally, people living on reservations are four times as likely as the general population to live without appliances, such as a refrigerator, range or sink.[82]

Development Office of Native American Programs' Indian Housing Block Grant Competitive Program and the Native American Housing Loan Guarantee Program (i.e., Section 184);[87] the Bureau of Indian Affair's Housing Improvement Program,[88] which provides grants to buy, replace, repair, and renovate homes; the Administration for Community Living's Tribal Housing under Title VI of the Older American's Act Title VI;[89] and tribe specific programs, like the Akwesasne Housing Authority, which built/expanded a senior housing community using a combination of NY State and federal funding.[90]

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) is the primary legislation addressing housing needs in tribal communities by providing annual funding directly to tribes to provide affordable housing for low-income people on reservations.[91] Advocates for tribal housing security urge Congress to reauthorize NAHASDA (which has not been authorized in 10 years) to increase funding to tribal communities to match inflation.[92]

Legal Services Access

The Older Americans Act (OAA) funds many programs aimed at supporting older adults to age in their communities, including some forms of in-home help, senior centers, transportation, meal delivery services, and congregate meal sites.[93] Title III of the OAA also funds legal assistance programs through contracts with local Area Agencies on Aging across the country. These legal assistance programs provide free legal help to older adults over the age of 60 on a variety of issues that may challenge older adults' health, independence, or economic security.[94] While there are no income limits to receive Title III legal services, these services are specifically targeted to older individuals with the greatest economic and social needs, which can include underserved populations like tribal elders.[95] However, the scope and eligibility criteria for these programs may vary with each legal assistance program.

The regulations accompanying the OAA also require coordination between tribal organizations and state, federal and local organizations. Outreach and strong partnerships are necessary to develop a robust referral and assistance network for Native elders. Legal assistance providers can reach out to the Title VI Program Directors in their area to learn about unmet needs, offer service, and develop culturally responsive service delivery systems.[96]

Title VI Services

Title VI of the OAA establishes nutrition, supportive, caregiver services, and other programs specifically to tribal elders.[97] Given that tribal elders are underserved by Title III services, Title VI aims to provide comparable services targeted specifically to tribal organizations.[98] While Title VI does not mirror Title III (for example, legal services are not included), it does allow tribes to allocate OAA funds to best meet the needs of tribal elders.

Title VI provides tribes flexibility in allocating resources to meet the needs of tribal elders, and also allows tribes to determine the age at which a person is considered an elder.[99] While the availability of Title VI funds falls well below the needs of tribal elders,[100] tribal elders can also receive services through Title III programs. The flexibilities that tribes have under the OAA are important because they allow tribes to fill in gaps where Title III programs fall short, allowing the tribe to serve more elders and assist with more issues. Tribes have used Title VI funds to develop programs for congregate and home-delivered meals, transportation services, caregiver counseling and respite services, and more.

Other sources of legal help for tribal elders include Indian Legal Services programs (ILS), which are stand-alone programs that vary in terms of eligibility requirements and scope of services;[101] other pro bono legal services, such as those funded through the states or the Legal Services Corporation; and tribal advocacy organizations, like the Native American Rights Fund.

Tribal Judicial Systems

A crucial element of tribal sovereignty is the protection of tribal courts and justice systems. There are 400 tribal judicial systems in U.S., many of which operate entirely under the direction of tribal members.[102] While the rules of each system will vary, many tribal courts center indigenous approaches to justice and can incorporate the esteemed role of tribal elders in the judicial process.[103] Some legal issues for tribal elders may require navigating special rules of jurisdiction and sentencing, in addition to the relevant tribal constitutions, codes, and ordinances.[104] Like the other social services, legal help for low-income tribe members can be difficult to access, including at critical junctures like arraignment hearings in criminal cases.[105] The tribal justice systems may experience capacity barriers as well, including due to limited funding or situations where there is no tribal law on a particular issue. Advocates and legal services programs who support tribal elders should become familiar with the laws and judicial systems in Indian Country—build professional awareness of and respect for tribal judicial systems—to better serve tribal elders and their communities.[106]

CONCLUSION

American Indian and Alaska Native elders are the lifeblood of tribal communities, yet they face some of the worst health and economic barriers to aging well. Policy and programs play a key role in addressing structural inequities for tribal elders. Advocacy, services, and policies that impact tribal elders must center Native culture and be developed in partnership with tribal communities. Case consultation and technical assistance is available for attorneys and professionals seeking more information on outreach and service delivery to low-income tribal elders. Contact Justice in Aging at info@justiceinaging.org.

RESOURCES

- The Continuum of Care National Resource Center, known as NICOA Compass.
- The American Indian and Alaska Native Long-Term Services and Supports (LTSS) Technical Assistance Center is a partnership between IHS, the Administration on Aging, and Centers for Medicaid and Medicare and can provide information on creating effective LTSS systems for Native elders, on or off reservations.
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